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Attorneys for Defendant
BRENDA M. O. CHUNG (02)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. 02-00225 DAE
)	
Plaintiff,)	DEFENDANT BRENDA M. O.
)	CHUNG'S (02) MOTION IN
vs.)	LIMINE NO. 3; CERTIFICATE
)	OF SERVICE
ANDY S. S. YIP, (01))	
BRENDA M. O. CHUNG, (02))	
)	
Defendants.)	Trial: August 15, 2007
)	Judge: David A. Ezra

DEFENDANT BRENDA M. O. CHUNG'S (02) MOTION IN LIMINE NO. 3

Comes now Defendant, Brenda M. O. Chung (02), by and through her undersigned counsel, and hereby moves this Honorable Court to preclude any statement, suggestion, or argument that Defendant Andy S. S. Yip and Defendant Brenda M. O. Chung were in a "boyfriend-girlfriend relationship."

This motion is made pursuant to Rules 102, 401, 402, 403, 405, 701, and 704 of the Federal Rules of Evidence and the Due Process Clauses of the Fifth and Fourteenth Amendments to the United States Constitution.

Defendant's undersigned counsel, having reviewed the Jencks material made available by the government, has noted that statements made pursuant to interviews by the government as well as the grand jury testimony of witness Eriko Dmitrovsky include the opinion that Defendant Andy S. S. Yip and Defendant Brenda M. O. Chung were in a relationship described, *inter alia*, as follows:

I ***understand*** they are business partner (sic) and very close friends, like boyfriend-girlfriend.

Grand jury testimony of Eriko Dmitrovsky, September 19, 2002 at page 6 lines 3 – 4 (emphasis added).

The opinions of Ms. Dmitrovsky, and of any other person, as far as undersigned counsel is aware, constitute pure speculation, and are not based on a sufficient foundation for admissibility.

Further, the Second Superseding Indictment, alleges in overt act no. 1, that:

On or about early 1998, Chung telephoned E.D. and asked her if she could help out her ***boyfriend***, Andy S. S. Yip with his "small tax problem." (emphasis added)

Second Superseding Indictment at page 3.

In light of the recently disclosed statements made by Eriko Dmitrovsky, reference to Defendant Andy S. S. Yip as the “boyfriend” of Defendant Brenda M. O. Chung should be stricken from the Second Superseding Indictment, and no reference be made to the relationship between the defendants as either literally “boyfriend-girlfriend” or of any other nature similar to that characterization.

DATED: Honolulu, Hawaii, August 14, 2007.

/s/ Howard K. K. Luke

HOWARD K. K. LUKE

DAVID M. HAYAKAWA

Attorneys for Defendant

BRENDA M. O. CHUNG (02)